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2 **UNITED STATES DISTRICT COURT**
3 **EASTERN DISTRICT OF CALIFORNIA**
4 **FRESNO DIVISION**

5 Harlan Douglas Todd,

6 Plaintiff,

7 v.

8 Kilolo Kijakazi, Acting
9 Commissioner of Social Security,

10 Defendant.

11 Case No. 1:21-cv-01354-GSA

12 **STIPULATION FOR THE AWARD**
13 **AND PAYMENT OF ATTORNEY**
14 **FEES AND EXPENSES PURSUANT**
15 **TO THE EQUAL ACCESS TO**
16 **JUSTICE ACT; ORDER**

17 IT IS HEREBY STIPULATED by and between the parties through their
18 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
19 attorney fees and expenses in the amount of SIX HUNDRED FIFTY-ONE DOLLARS
20 and 90/100 (\$651.90) under the Equal Access to Justice Act (EAJA), 28 U.S.C.
21 § 2412(d). This amount represents compensation for all legal services rendered on
22 behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28
23 U.S.C. § 2412(d).

24 After the Court issues an order for EAJA fees to Plaintiff, the government will
25 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
26 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
27 to honor the assignment will depend on whether the fees are subject to any offset
28 allowed under the United States Department of the Treasury's Offset Program. After
the order for EAJA fees is entered, the government will determine whether they are
subject to any offset.

29 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
30 determines that Plaintiff does not owe a federal debt, then the government shall cause
31 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to

1 the assignment executed by Plaintiff. Any payments made shall be delivered to
2 Plaintiff's counsel, Jonathan O. Peña.

3 This stipulation constitutes a compromise settlement of Plaintiff's request for
4 EAJA attorney fees, and does not constitute an admission of liability on the part of
5 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
6 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
7 Counsel including Counsel's firm may have relating to EAJA attorney fees in
8 connection with this action.

9 This award is without prejudice to the rights of Counsel and/or Counsel's firm
10 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the
11 savings clause provisions of the EAJA.

12 Respectfully submitted,

13
14 Dated: November 10, 2021

15 /s/ Jonathan O. Peña
16 JONATHAN O. PEÑA
17 Attorney for Plaintiff

18 Dated: November 10, 2021

19 PHILLIP A. TALBERT
20 Acting United States Attorney
21 DEBORAH LEE STACHEL
22 Regional Chief Counsel, Region IX
23 Social Security Administration

24 By: * Margaret Lehrkind
25 Margaret Lehrkind
26 Special Assistant U.S. Attorney
27 Attorneys for Defendant
28 (*Permission to use electronic signature
obtained via email on November 10, 2021).

ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (the "Stipulation"),

IT IS ORDERED that fees and expenses in the amount of SIX HUNDRED FIFTY-ONE DOLLARS and 90/100 (\$651.90) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **November 11, 2021**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE